

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Amendment of the Commission's Rules
To Permit Flexible Service Offerings
In the Commercial Mobile Radio Services

WT Docket No.
96-6

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NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS
REQUEST TO EXTEND AND MODIFY THE COMMENT CYCLE

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February 20, 1996

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Pursuant to Sections 1.46 and 1.44 of the Federal Communication Commission's ("FCC" or "Commission") General Rules of Practice and Procedure, 47 C.F.R. Sections 1.46 and 1.44 (1995), the National Association of Regulatory Utility Commissioners ("NARUC") respectfully requests that the Commission modify the pleading cycle established in this proceeding by (1) extending the deadline for filing initial comments by four days from February 26 to March 1, 1996, and (2) increasing the time allowed to examine and reply to the initial comments from 19 days to twenty-five (25) days to March 26, 1996.

I. BACKGROUND

NARUC is a quasi-governmental nonprofit organization founded in 1889. NARUC includes within its membership those governmental bodies of the fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands, which engage in the regulation of carriers and utilities.

NARUC's mission is to improve the quality and effectiveness of public utility regulation in America. More specifically, NARUC is composed of the State officials charged with the duty of regulating the telecommunications common carriers within their respective borders. As such, they have the obligation to assure the establishment of such telecommunications services and facilities as may be required by the public convenience and necessity, and the furnishing of service at rates that are just and reasonable. As discussed below, the FCC's proposed action in this docket will clearly impact upon this obligation.

II. THE FCC'S NPRM

The Notice of Proposed Rulemaking ("NPRM") in the above captioned docket, which was adopted in open session by this Commission on January 24, 1996, issued January 25, 1996. At ¶ 19, mimeo at 11-2, the FCC contends that PCS providers "intend to integrate mobile, wireless fixed, wireline networks, and cable facilities into seamless packaged offerings that could span several states." Elsewhere in the NPRM, the FCC, inter alia, defines "wireless local loop" as the "path between the subscriber and the first point of switching or aggregation of traffic" and invites parties to comment on its proposal to "treat fixed wireless local loop services as an integral part of the CMRS services offered by a CMRS provider, so long as the carrier otherwise offers interconnected, for profit mobile service to the public on licensed CMRS spectrum." NPRM at ¶ 20.

The January 11, 1996 NPRM sets (i) February 26, 1996 as the date for interested persons to file initial comments on the FCC's proposed response, and (ii) March 18, 1996 as the final day to reply to those initial comments.

As the FCC notes this NPRM is intended to promote competition between wireless and wireline services. NPRM at ¶ 3. Accordingly, it appears the FCC's proposal could impact both directly and indirectly facilities currently subject to State Commission jurisdiction.

III. BASIS FOR REQUEST

A - DELAY OF INITIAL COMMENT DATE: NARUC is holding its winter meetings during the last week of February. The meetings conclude two days after the original February 26 deadline for filing initial comments. Because of the potential importance of the issues presented by the NPRM, NARUC's counsel distributed the text of the NPRM to key Communications Committee staff for analysis. However, it will not be possible to achieve a formal NARUC consensus position until the winter meeting.

B - EXPANSION OF THE COMMENT CYCLE: In addition, the current comment cycle basically gives only a bit over two weeks [19 days] for the States to examine the initial submissions and formulate reply comments.

It is likely that there will be numerous comments in this docket. Because much of the discussion is likely to implicate jurisdictional issues critical to the States, State advocates, including NARUC, will need to closely examine these pleadings. NARUC respectfully suggests that two weeks is not a sufficient length of time to examine the initial pleadings and formulate a reply to them.

As in the CMRS interconnection proceeding, the issues raised by the Commission in this docket are at least on par with those raised in the Numbering Portability Docket (CC 95-116; FCC 95-284), the "Emerging Competition" Price Cap Docket (CC 94-1, 93-124, 93-197; FCC 95-393), the Local Competition Data Collection Docket (CC 95-66), and numerous others. In each of these dockets, and in similar dockets, the FCC has routinely set the period between initial and reply comments at 30 days to afford interested parties an adequate opportunity to formulate replies.

In addition, it frequently takes a week, and sometimes more, for many States, particularly those in the western part of the country, to even get a complete set of the comments filed in any FCC proceeding. Moreover, many State commissions have pre-submission rules, similar to the FCC's 21 day rule, that require their Staffs to give Commissioners several days to approve pleadings before they can be filed.

V. REQUEST

Accordingly, NARUC requests that the FCC expand the time between initial and reply comments to at least 25 days to allow NARUC, and its individual State commission members, an adequate opportunity to examine the initial submissions of the parties and formulate replies. Moreover, because of the timing of the current initial comment date vis-a-vis NARUC's Winter meetings, we respectfully request that the FCC move the initial comment date back four days.

NARUC has been an active participant in every proceeding dealing with Commercial Mobile Radio Service issues. The FCC's proposed action (i) clearly raises issues of concern to the NARUC's state commission membership and (ii) could directly impact these members' ability to adhere to their respective mandates to serve the public interest. No other participant's comments can adequately represent the viewpoint of NARUC and its membership. This viewpoint is necessary to fully illuminate the issues raised by the FCC's proposal and assure a complete record upon which to base a decision. Hence, granting the requested modifications will serve the public interest by ensuring NARUC's, and its members', continued full participation. Moreover, no party can be prejudiced by the delay. Because NARUC's winter meeting begins closely on the heels of the original filing dates, only a short extension is necessary to assure NARUC's full participation.

Of course, granting a longer period of time to reply to initial comments affects all parties equally.

VI. CONCLUSION

Thus, because of the importance of the issues raised by the FCC's NPRM to NARUC's membership, the close proximity of NARUC's winter meeting to the current deadlines, NARUC's inability to formulate a consensus position on those critical issues until its winter meeting, and the need for an adequate review period to address the initial submissions, NARUC respectfully requests that the FCC extend the deadline for filing initial comments by four days from February 26 to March 1, 1996, and (2) increase the time allowed to examine and reply to the initial comments from 19 days to 25 days to March 26, 1996.

Respectfully Submitted,



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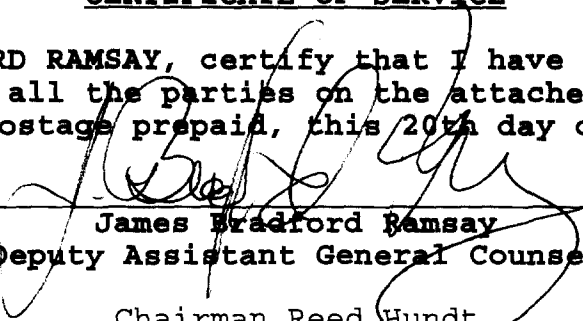
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February 20, 1996

CERTIFICATE OF SERVICE

I, JAMES BRADFORD RAMSAY, certify that I have served a copy of the foregoing on all the parties on the attached service list by 1st class mail, postage prepaid, this 20th day of February, 1996.


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